

EDWARD J. MARKEY  
7TH DISTRICT, MASSACHUSETTS

ENERGY AND COMMERCE COMMITTEE

RANKING MEMBER  
SUBCOMMITTEE ON  
TELECOMMUNICATIONS AND  
THE INTERNET

SELECT COMMITTEE ON  
HOMELAND SECURITY

RESOURCES COMMITTEE

# Congress of the United States

House of Representatives

Washington, DC 20515-2107

March 11, 2003

2108 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-2107  
(202) 225-2836

DISTRICT OFFICES:

5 HIGH STREET, SUITE 101  
MEDFORD, MA 02155  
(781) 396-2900

188 CONCORD STREET, SUITE 102  
FRAMINGHAM, MA 01702  
(508) 875-2900  
[www.house.gov/markey](http://www.house.gov/markey)

The Honorable Richard A. Meserve  
Chairman  
Nuclear Regulatory Commission  
Washington, D.C. 20555

Dear Mr. Chairman:

I am writing to request additional information regarding allegations of retaliation against whistleblowers in the Commission's Region IV Arlington, Texas offices. As you know, I wrote you regarding some of these allegations in May 2001. I am disturbed that they remain unresolved. In the wake of the events of September 11, 2001, it is even more vital that the NRC foster a work environment that rewards whistleblowers for their courage in disclosing safety, security, or criminal violations. Instead, the Commission appears to treat these brave individuals as though they are themselves criminals.

As you know, in February 2001, the U.S. Secret Service and the NRC Office of Inspector General (OIG) conducted a raid on the Region IV offices after several whistleblowers disclosed evidence of criminal wrongdoing on the part of other NRC employees. The raid resulted in the arrests of NRC employees Guy Compton, Dean Papa and Joseph Tapia, all of whom were either convicted or pled guilty. Shockingly, it appears that several of the employees who provided the allegations in the first place and cooperated with the investigation of the wrongdoing have since been fired. For each of the following cases, I ask that you provide me with:

- a) The reason why the individual was terminated
- b) Whether the employee has alleged that the termination was retaliation;
- c) Whether the NRC investigated the claim of retaliation, and if so, what were the findings and if not, why not;
- d) A complete update on the status of the case.
- e) A description of all efforts by the NRC (both Region IV and headquarters) to reach a just settlement in the case.
- f) The reason why the case has not yet settled.
- g) What actions have been taken to correct the specific security, criminal or other matters the whistleblowers raised.

## 1) Ron Bath

In May 2001, I wrote you regarding the concerns of Ron Bath, who was terminated in December 2000 after his letter detailing concerns of abuse of authority, criminal misconduct and security weaknesses to the NRC Regional Administrator was turned over to his employer. You responded on June 13, 2001, stating that the "Commission is prepared to act if there is a need for timely and effective management intervention." As you may recall, Mr. Bath was fired at the request of Dean Papa, who

later pled guilty to engagement in criminal activity as a result of Mr. Bath's disclosures. Mr. Bath filed a whistleblower suit, but NRC has concluded that because Mr. Bath was a contractor employee who blew the whistle on NRC employees, he has no legal recourse. Since Mr. Bath was not an NRC employee, he has no administrative recourse either. I find this outrageous. While the NRC evidently allowed all those who were indicted to resign from their jobs so as not to besmirch their federal employment records, Mr. Bath's case remains in administrative limbo, and he has been denied justice and left without an income.

2) Lanell Allen

Ms. B. Lanell Allen was hired by an NRC contractor in October 1995 to provide support services to the Region IV office, and like Ron Bath, Ms. Allen was terminated on March 5 2002 at the direct request of Region IV. When the NRC OIG and Secret Service were investigating the Region IV personnel, Ms. Allen reported security risks to the NRC computer network and otherwise assisted with the investigation. Ms. Allen was initially denied unemployment compensation, remained unemployed for 8-9 months and suffered serious depression. Because she was an NRC contractor like Mr. Bath, her options to obtain remedy are very limited. She filed a legal suit on September 9, 2002, but thus far her case remains unresolved.

3) Peter Krayner

In June 2001, Mr. Krayner, an NRC employee, raised a formal complaint of retaliation against him by Region IV employee Kathleen Hamill as a result of his opposition to the criminal conduct of the individuals who were later indicted. His complaint was not forwarded to the NRC OIG as it should have been, and has yet to be investigated. Several months later, Mr. Krayner was fired. He has filed a case with the Merit Systems Protection Board. He is about to be called up for active service in the Naval Reserves, and is concerned he will be deployed and will have to leave his family behind with no income and no resolution of this matter.

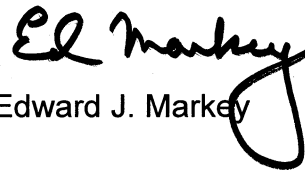
I am concerned that the management problems in Region IV appear to be deep, systemic and in need of urgent action on the part of NRC headquarters to resolve. For example, an employee discussion of the Action and Communication Plans in August 2001 reportedly found that 56% of the staff in Region IV's Division of Resource Management and Administration (DRMA) felt uncomfortable in confiding in division managers because of the fear of retaliation or harassment, and 53% of the staff reportedly agreed that Regional Managers are doing a poor job of protecting whistleblowers. Consequently, I ask that you also provide me with your response to the following questions:

- 1) Please provide me with copies of the last 3 employee survey reports for Region IV's DRMA, including the August 2001 report discussed above.
- 2) What has Region IV done to correct these serious problems with employee morale?
- 3) What has NRC headquarters done to ensure these corrective actions are adequate and effective?

- 4) What has Region IV done to ensure that whistleblowers are able to come forward with their concerns without being retaliated against for doing so?
- 5) What has NRC headquarters done to ensure that these measures are effective?
- 6) Does the Commission believe that a legislative remedy is required to ensure that NRC contractor employees who are retaliated against by NRC employees, such as Mr. Bath and Ms. Allen, have recourse? If so, please provide suggested legislative language. If not, then why haven't their cases been settled?

I again urge you to take expeditious action to resolve these complaints in a manner that is acceptable to both sides. Please provide me with the requested information no later than close of business on March 28, 2003. Thank you very much for your consideration of this important matter. If you have any questions or concerns, please have your staff contact Dr. Michal Freedhoff of my staff at 202-225-2836.

Sincerely,

A handwritten signature in black ink, appearing to read "Ed Markey", with a large, stylized loop at the end.

Edward J. Markey